

ORIGINAL

Approved: Samuel P. Rothschild  
SAMUEL P. ROTHSCHILD  
Assistant United States Attorney

Before: THE HONORABLE ROBERT W. LEHRBURGER  
United States Magistrate Judge  
Southern District of New York

19 MAG 9038

UNITED STATES OF AMERICA

- v. -

LAZARO MORALES DELGADO,  
a/k/a "Lazaro Morales-Delgado,"  
a/k/a "Lazaro Morales,"  
a/k/a "Luzaro Morales,"  
a/k/a "Alfredo Giutirrez,"  
a/k/a "Alfredo Giuitirrez,"

Defendant.

SEALED COMPLAINT

Violations of  
8 U.S.C. §§ 1326(a)  
& (b) (2)

COUNTY OF OFFENSE:  
BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

MATTHEW LEW, being duly sworn, deposes and says that he is a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), and charges as follows:

COUNT ONE

(Illegal Reentry)

1. From at least on or about August 28, 2019, in the Southern District of New York and elsewhere, LAZARO MORALES DELGADO, a/k/a "Lazaro Morales-Delgado," a/k/a "Lazaro Morales," a/k/a "Luzaro Morales," a/k/a "Alfredo Giutirrez," a/k/a "Alfredo Giuitirrez," the defendant, being an alien, unlawfully did enter, and was found in, the United States, after having been removed from the United States subsequent to a conviction for commission of an aggravated felony, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Sections 1326(a) and (b)(2).)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I am an officer with the United States Department of Homeland Security, ICE, and I have been personally involved in the investigation of this matter. This affidavit is based in part on my conversations with law enforcement agents and others, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my review of public court records and records maintained by ICE regarding LAZARO MORALES DELGADO, a/k/a "Lazaro Morales-Delgado," a/k/a "Lazaro Morales," a/k/a "Luzaro Morales," a/k/a "Alfredo Giutirrez," a/k/a "Alfredo Giuitirrez," the defendant, including his criminal history, I have learned, among other things, the following:

a. MORALES DELGADO is a native and citizen of Mexico. He is not, and has never been, a citizen of the United States.

b. On or about October 23, 1996, MORALES DELGADO, under the name "Lazaro Morales," pleaded guilty in the Supreme Court for the State of New York, New York County, to, among other things, assault in the second degree, in violation of New York Penal Law Section 120.05(2) (the "1996 Conviction").

c. On or about October 23, 1996, MORALES DELGADO was sentenced to a term of imprisonment of one to three years on the 1996 Conviction.

d. On or about July 14, 1997, MORALES DELGADO, under the name "Lazaro Morales-Delgado," was removed from the United States on the order of a United States Immigration Judge (the "1997 Removal") following the 1996 Conviction. The Warrant of Removal/Deportation associated with the 1997 Removal noted the following potential aliases: "Luzaro Morales" and "Alfredo Giutirrez."

e. Before the 1997 Removal, MORALES DELGADO, under the name "Lazaro Morales," was fingerprinted and received a particular Federal Bureau of Investigation Identification Number (the "FIN").

f. ICE has performed searches of all relevant ICE indices and confirmed that, following the 1997 Removal, MORALES DELGADO never obtained the express consent of the Attorney General of the United States, or the Secretary for the Department of Homeland Security, to apply or reapply for admission to the United States.

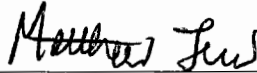
g. On or about August 28, 2019, MORALES DELGADO was found in the Southern District of New York when he was arrested by the New York City Police Department ("NYPD") in the Bronx, New York, on charges of, among other things, assault in the third degree, in violation of New York Penal Law Section 120.00(1) (the "2019 State Case").

h. The 2019 State Case was dismissed, its arrest records were sealed, and the fingerprint impressions that were taken were destroyed. Prior to the fingerprint impressions being destroyed, however, they were run through law enforcement databases and were found to correspond to the FIN.

4. Based on my experience with ICE, I understand that assault in the second degree, in violation of New York Penal Law Section 120.05(2), qualifies as an aggravated felony conviction within the meaning of Section 1326(b)(2) of Title 8 of the United States Code.

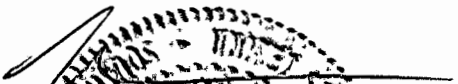

5. I have reviewed a report prepared by a trained fingerprint examiner working for ICE who reviewed and compared, among other things: (1) the fingerprint impression taken of LAZARO MORALES DELGADO, a/k/a "Lazaro Morales-Delgado," a/k/a "Lazaro Morales," a/k/a "Luzaro Morales," a/k/a "Alfredo Giutirrez," a/k/a "Alfredo Giutirrez," the defendant, under the name "Lazaro Morales-Delgado," noting the aliases "Luzaro Morales" and "Alfredo Giutirrez," in connection with the 1997 Removal; and (2) the fingerprint impressions taken of MORALES DELGADO, under the name "Alfredo Giutirrez," in connection with the 1996 Conviction. The fingerprint impressions came back to one and the same individual, LAZARO MORALES DELGADO, a/k/a "Lazaro Morales-Delgado," a/k/a "Lazaro Morales," a/k/a "Luzaro Morales," a/k/a "Alfredo Giutirrez," a/k/a "Alfredo Giutirrez," the defendant.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of LAZARO MORALES DELGADO, a/k/a "Lazaro Morales-Delgado," a/k/a "Lazaro Morales," a/k/a "Luzaro Morales," a/k/a "Alfredo Giutierrez," a/k/a "Alfredo Giutierrez," the defendant, and that he be arrested and imprisoned or bailed, as the case may be.



MATTHEW LEW  
Deportation Officer  
U.S. Department of Homeland Security

Sworn to before me this  
26th day of September 2019

THE HONORABLE ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK